

mean the monthly average number of market hogs Member sent to slaughter during the three (3) full calendar months immediately prior to the last day Member sent market hogs for slaughter by Farmland. In the event that Member is stocked with Triumph Genetics but never sells market hogs to Farmland, then the termination fee shall be the Triumph Genetic Fee plus any applicable Value Share Basis per animal multiplied times the number of market hogs Member is obligated to sell to Farmland during the first year of Member's Market Hog Purchase Agreement with Farmland. Member shall make such payment in full within 10 days from the date of invoice.

C. Upon termination for any reason, if Member has agreed to a Value Share Basis adjustment as described in Section 9 of this Agreement, then Member shall pay Triumph the Value Share Basis adjustment per anticipated market hog for the next 12 months (as described in above paragraph).

## **12. Severance of Member.**

A. If Member fails to supply all of its production of Triumph Pigs to Farmland for a period of two consecutive months or ceases to be a member of Triumph prior to the expiration of the Term of this Agreement (the earlier of the last day of the two month period or the day that Member ceases to be a member of Triumph being the "Severance Date"), then Member shall be required to pay Triumph a termination fee. This termination fee will be calculated by determining Member's expected monthly market hog production multiplied by a factor of 12, and again multiplied by the Triumph Genetic Fee plus any applicable Value Share Basis. The parties hereby acknowledge that the purpose of using a multiplier factor of 12 to determine a termination fee is to approximate the estimated production of market hogs for slaughter by Member after the Severance Date and agree that such multiplier factor is reasonable. In the event that Member is stocked with Triumph Genetics but never sells market hogs to Farmland, then the termination fee shall be equal to the number of market hogs Member is obligated to sell to Farmland during the first year of Member's Market Hog Purchase Agreement with Farmland multiplied by a fee of the Triumph Genetic Fee plus any applicable Value Share Basis; provided, that in the event of force majeure resulting in Member not selling to slaughter or transferring Triumph Pigs containing Restricted Genetics for at least two years after the last date upon which Member is stocked with Triumph Genetics, then Member shall not be required to pay to Triumph the termination fee described in this Section. In any case, Member will slaughter any breeding stock containing Triumph Genetics which were owned or housed by the severed Member at the time Member ceased to be a Member or failed to supply Triumph Pigs to Farmland.

B. In the event that Member had elected to participate in Value Share Basis, a Value Share Basis termination fee will be due to Triumph, as described in Section 11.

**13. Procedures Upon Termination.** Upon termination of this Agreement, Member shall cause all animals (described in Section 11) containing Restricted Genetics in all Herds to be slaughtered and all other genetic material (e.g., semen and embryos) that contain Restricted Genetics to be destroyed. Member shall have the right to conduct any such slaughter and destruction described in this Section 13 in a commercially reasonable manner so long as such disposal is in compliance with applicable requirements of the PIC Genetic Agreement.

## **14. Covenant Not-To-Compete.**

A. As a condition to obtaining access to the genetics to be supplied by PIC, the following covenant not to compete has been required by PIC. During the Term of this Agreement, and for a period of twenty (20) years after the end of the Term of this Agreement, Member will not, jointly or severally, establish, engage in, or otherwise become involved in, directly or indirectly, as an owner, member, partner or shareholder with more than a